

LICENSING COMMITTEE
16 October 2013 at 6.00 pm

Since the publication of the agenda, updated reports have been produced for the following items:

- | | | | |
|----|---|----------------|--------------------------------------|
| 4. | Scrap Metal Dealers Act 2013 | (Pages 1 - 2) | Claire Perry Tel: 01732 227325 |
| | Update and Setting of Fees | | |
| 5. | Amendments to the Constitution relating to the Licensing function | (Pages 3 - 34) | Claire Perry Tel: 01732 227325 |

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NEW SCRAP METAL DEALERS ACT 2013

Licensing Committee – 16 October 2013

Report of the: Chief Officer Environmental and Operational Services

Status: For Information

Key Decision: Yes

This report supports the Key Aim of Safe Communities to aid in the reduction of crime within the District.

Portfolio Holder Cllr. Ms Lowe (Housing and Community Safety)

Contact Officer(s) Claire Perry Ext: 7325 / 07970 731616

Revised recommendation to the Licensing Committee: That it be noted that

- a) the revised regulatory regime for the scrap metal recycling and vehicle dismantling industries is an Executive function and as such does not fall within the remit of this Committee's terms of reference; and
- b) an updated report on fees will now be considered by the Housing and Community Safety Advisory Committee before a decision is taken by Cabinet, and not Council.

Reason for recommendation: to ensure that the Council complies with its Statutory duties.

Update since the publication of the Agenda

1. Since the publication of the report, Officers have become aware that, unlike previously thought, Scrap Metal Dealers licensing is an Executive function. This therefore means that fee setting must be considered by Cabinet and does not fall within the terms of reference of this Committee. This report can therefore only be considered as an information item by this Committee.

Mr Richard Wilson
Chief Officer Environmental and Operational Services

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AMENDMENTS TO THE COUNCIL'S CONSTITUTION RELATING TO THE COUNCIL'S LICENSING FUNCTION

Licensing Committee – 16 October 2013

Report of Chief Officer Environmental and Operational Services

Status: For Decision

Also considered by: Governance Committee – 5 November 2013

Council – 26 November 2013

Key Decision: No

Portfolio Holder Cllr. Ms Lowe (Housing and Community Safety)

Contact Officer(s) Claire Perry Ext: 7325

Recommendation to the Licensing Committee and Governance Committee: That Full Council be recommended to approve the amendments to Part 8 and Part 13 of the Council's constitution attached at Appendix A and Appendix B.

Recommendation to Council: That the amendments to Part 8 and Part 13 of the Council's constitution attached at Appendix A and Appendix B be approved.

Reason for recommendation: to ensure that the Council's Constitution remains up-to-date and reflects the legislation under which the Council's Licensing Team operate.

Update

1. Since the publication of the report, Officers have become aware that, unlike previously thought, Scrap Metal Dealers licensing is an Executive function. This therefore means that delegation of these matters cannot be given to the Licensing Committee. The references to this have been removed.

Appendices Appendix A - Part 8 – Licensing Committee (as amended)
Appendix B– Part 13 - Officer Responsibilities and Delegations (as amended)

Background Papers: Sevenoaks District Council's Constitution

Mr Richard Wilson
Chief Officer for Environmental and Operation Services

PART 8 – LICENSING COMMITTEE

1. Licensing Committee

1.1 Composition: Thirteen Members of the District Council reflecting the political proportionality of the Council

1.2 Terms of Reference

- (a) Except as provided in the Licensing Act 2003 and the Gambling Act 2005, the discharge of all functions of the District Council as licensing authority prescribed by those acts;
- (b) the issue, renewal, transfer, suspension and revocation of hackney carriage, private hire vehicle, driver and operator licenses;
- (c) applications for the licensing of sex establishments
- (d) the discharge of relevant functions relating to the Police Reform and Social Responsibility Act 2011; and
- (d) the discharge of all other functions relating to licensing and registration in so far as they are the responsibility of the District Council.

2. Licensing Hearing Sub-Committees

2.1 The Licensing Committee has established five Licensing Hearing Sub-Committees. The Chief Executive will call a meeting of one of the sub-committees whenever there is business to be transacted.

Composition: Each Sub-Committee will contain three Members of the Licensing Committee. Any member of the Licensing Committee may act as a substitute on any of the Licensing Sub-Committees. Democratic Services must be notified by the members concerned of any substitutions at least one working hour prior to a sub-committee meeting.

~~2.2~~ Terms of Reference

Licensing Act 2003:

- (a) determination of application for the grant/ renewal of a personal licence where an objection notice has been given by the Police;
- (b) consideration of Police objection notice following conviction of personal licence holder;
- (c) determination of application for the variation of a designated premises supervisor where a notice has been received from the Police;

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- (d) determination of application for the transfer of a premises licence where a notice has been received from the Police;
- (e) determination of application for:
 - (i) premises licence;
 - (ii) club premises certificate;
 - (iii) provisional statement;
 - (iv) variation of premises licence / club premises certificates;
 - (v) review of a licence following an application by a senior police officer; where relevant representations have been made;
- (f) determination of application for the review of a premises licence/club premises certificate;
- (g) determination on review of premises licence following closure order;
- (h) consideration of Police or Environmental Health objection notice given in response to a temporary event notice; and
- (i) consideration of Police notice given in response to an interim authority notice.

Gambling Act 2005:

- (a) determination of application for the grant/ variation/ transfer/ reinstatement of premises licence where relevant representations have been received.;
- (b) determination on review of premises licence;
- (c) determination of application for provisional statement where relevant representations have been received;
- (d) consideration of notice of objection to temporary use notice;
- (e) determination of application for the grant/ renewal of family entertainment centre gaming permit, club gaming permit, club machine permit, licensed premises gaming machine permit, gaming machine permit where relevant representations have been received; and
- ~~(f)~~ —cancellation of club gaming permit, club machine permit, licensed premises gaming machine permit where relevant representations have been received.

Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27, Policing and Crime Act 2009)

(a) determination of application for the grant/ renewal/ transfer of a sex shop, sex cinema or sexual entertainment venue

Town Police Clauses Act 1847, Public Health Act 1875 and Local Government (Miscellaneous Provisions) Act 1976

(a) to exercise the Council's powers and duties in relation to the licensing of hackney carriages and private hire vehicles, including the licensing of vehicles, drivers and operators, the control of numbers of hackney carriages, the licensing of private hire operators and the granting of permits for small buses where the matter has been referred by the delegated officer.

3. Procedure at Sub-Committees of the Licensing Committee (established in accordance with Section 9 of the Licensing Act 2003)

- 3.1 In accordance with Section 9 (1) of the Licensing Act 2003, the Licensing Committee has resolved to establish five Sub-Committees, each consisting of three members of the Committee.
- 3.2 The Sub-Committees have delegated authority to determine those functions that are reserved for decision by the Sub-Committees in accordance with Appendix B of the Council's Statement of Licensing Policy dated 7th January 2011.
- 3.3 Hearings shall be conducted in accordance with this Procedure Note and The Licensing Act 2003 (Hearings) Regulations 2005 subject to the right of the Sub-Committee to vary that procedure at their absolute discretion if considered in the public interest.
- 3.4 The quorum for a Sub-Committee shall be two members.
- 3.5 At the commencement of each hearing the Sub-Committee shall elect one of its members as Chairman.
- 3.6 The order of business at hearings shall be:
 - (a) Election of Chairman.
 - (b) Declarations of interests.
 - (c) Chairman explains the procedure to be followed at the hearing, including the setting of equal time limits for all parties and the granting of adjournments.

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- (d) Chairman ascertains who is assisting or representing the parties.
- (e) Applicant (or his/her representative) addresses the Sub-Committee.
- (f) Applicant questioned by members. At the discretion of the Sub-Committee, other parties may be permitted to question the applicant.
- (g) Persons who have made representations in respect of the application (or their representative) address the Sub-Committee. No issues other than those relevant to their representations may be raised.
- (h) Members question each party at the conclusion of their address. At the discretion of the Sub-Committee, the applicant may be permitted to question other parties.
- (i) Sub-Committee may offer the parties a short adjournment to discuss in the absence of the Sub-Committee whether a solution acceptable to all the parties can be put to the Sub-Committee.
- (j) Applicant (or his/her representative) makes closing address.
- (k) Sub-Committee may grant a short adjournment. The parties may not speak to members regarding the application during adjournments.
- (l) The Sub-Committee considers the application and motions put to accept or reject the application in the terms requested or to grant the application subject to specified conditions. Reasons are to be given for motions.
- (m) The parties will be informed of the decision at the hearing or thereafter in accordance with Regulation 26 of the 2005 Regulation.

PART 13 - OFFICER RESPONSIBILITIES AND DELEGATIONS

1. The Council’s Officers

1.1 The Council has people working for it (Officers) to give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between Officers and Members. (Appendix J - Protocol on Councillor and Officer Relations)

2. Management Structure

General

2.1 The full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

Chief Officers

2.2 The full Council will engage persons for the following posts, who will be designated Chief Officers:

| Post | Functions and areas of responsibility |
|---|---|
| Chief Executive | Overall corporate management and operational responsibility (and Head of Paid Service) (including overall management responsibility for all Officers) Provision of professional advice to all parties in the decision-making process. Representing the Council on partnership and external bodies (as required by statute or the Council). The Section 151 Officer. The Returning Officer and Electoral Registration Officer for the Council. Responsibility for Regeneration. |
| Chief Officer Communities & Business | Community Engagement, Community Plan, Community Safety, Economic Development, Grants, Health, Leisure, Health and Wellbeing Boards, Older People, Safeguarding, West Kent Partnership, Young People. |
| Chief Officer Environmental & Operational | Building Control, Business Continuity, Corporate Health & Safety, CCTV, Emergency Planning, Environmental Health, Licensing, Parking & Amenity, Procurement, Refuse Collection & Recycling, Street & Other |

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|----------------------------------|---|
| Services | cleansing services, Land Charges. |
| Chief Finance Officer | Audit, Anti-Fraud, Benefits, Business Rates, Council Tax, Finance, Risk Management, Strategic Asset Management, Treasury Management. |
| Chief Officer Housing | Climate Change, Empty Homes, Housing Policy & Enabling, Management of Gypsy/Traveller sites & unauthorised encampments, Liaison with Housing Associations, Private Housing, Social Housing, West Kent Leader Programme, Private sector letting scheme, Disabled facility grants and welfare funerals. |
| Chief Officer Legal & Governance | Data Protection & Freedom of Information, Democratic Services, Elections, Legal Services, Monitoring Officer, Standards Ethics and Governance |
| Chief Planning Officer | Conservation, Development Control, Planning Appeals, Planning Enforcement, Planning Policy, Arboricultural Policy. |
| Chief Officer Corporate Support | Customer Services, Facilities Management, IT Services, Property Services, Post Room & Scanning, Telecommunications. |

2.3 The designations of these posts may be changed from time to time by the Cabinet on receipt of advice from the Chief Executive.

Head of Paid Service and s.151 Officer and Monitoring Officer

2.4 The Council will designate the following posts as shown:

| Post | Designation |
|----------------------------------|---|
| Chief Executive | Head of Paid Service and s. 151 Officer |
| Chief Officer Legal & Governance | Monitoring Officer |

2.5 Such posts will have the functions described in paragraphs 3, 4 and 5 below.

Structure

2.6 The Chief Executive will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out at the end of this part of this Constitution.

Delegations to Dartford Borough Council

2.7 Pursuant to enabling legislation Council and Cabinet have delegated to Dartford

Borough Council via its Head of Paid Service the discharge of all functions with regard to the Internal Audit and Fraud Service as may be more particularly identified in Schedule 1 of the Partnership Working Agreement. Council and Cabinet have also agreed to place at the disposal of Dartford Borough Council for the purposes of their functions the services of officers employed by Sevenoaks District Council.

- 2.8 Pursuant to enabling legislation Council and Cabinet have delegated to Dartford Borough Council via its Head of Paid Service the discharge of all functions with regards to the Environmental Health Service as may be more particularly identified in the Partnership Working Arrangements. Council and Cabinet have also agreed to place at the disposal of Dartford Borough Council for the purposes of their functions the services of officers employed by Sevenoaks District Council.

3. Functions of the Chief Executive (as Head of Paid Service)

Discharge of Functions by the Council

- 3.1 The Chief Executive will keep under review the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

Restrictions on Functions

- 3.2 The Chief Executive may not be the Council's Monitoring Officer but may hold the post of s.151 Officer if a qualified accountant.

4. Functions of the Monitoring Officer (Chief Officer Legal & Governance)

Maintaining the Constitution

- 4.1 The Monitoring Officer (Chief Officer Legal & Governance) will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

Ensuring Lawfulness and Fairness of Decision-Making

- 4.2 After consulting with the Chief Executive (the Head of Paid Service and s.151 Officer), the Chief Officer Legal & Governance (Monitoring Officer) will report to the full Council or to the Cabinet in relation to an Executive Function – if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration.
- 4.3 Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

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Supporting the Standards Committee

- 4.4 The Chief Officer Legal & Governance (the Monitoring Officer) will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- 4.5 Notwithstanding the duty of confidentiality, the Monitoring Officer shall be at liberty to disclose any information relating to the Council's affairs, and providing copies of any records or documents belonging to the Council to the Standards Committee for the purpose of investigation or determination of a complaint against a Member.

Conducting Investigations

- 4.6 The Chief Officer Legal & Governance (the Monitoring Officer) may conduct investigations into allegations of Member Code of Conduct breaches and make reports or recommendations in respect of them to the Standards Committee.

For Access to Information

- 4.7 The Chief Executive (the Head of Paid Service and s.151 Officer) will ensure that Cabinet decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

Advising Whether Cabinet Decisions are Within the Budget and Policy Framework

- 4.8 The Monitoring Officer, in consultation with the Head of Paid Service and s.151 Officer, will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

Providing Advice

- 4.9 The Monitoring Officer, in consultation with the Head of Paid Service and s.151 Officer, will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members.

Restrictions on Posts

- 4.10 The Monitoring Officer cannot be the Head of Paid Service and s.151 Officer.

5. Functions of the s.151 Officer (the Chief Executive)

Ensuring Lawfulness and Financial Prudence of Decision-Making

- 5.1 After consulting with the Monitoring Officer, the s.151 Officer will report to the full Council or to the Cabinet in relation to an Executive Function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

Administration of Financial Affairs

- 5.2 The s.151 Officer will have responsibility for the administration of the financial affairs of the Council.

Contributing to Corporate Management

- 5.3 The s.151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

Providing Advice

- 5.4 The s.151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members and will support and advise Members and Officers in their respective roles.

Giving Financial Information

- 5.5 The s.151 Officer will provide financial information to the media, members of the public and the community.

Restrictions on Functions

- 5.6 The s.151 Officer may not be the Monitoring Officer but may hold the post of Head of Paid Service.

6. Duty to provide sufficient resources to the Monitoring Officer, the s.151 Officer and the Returning Officer

- 6.1 The Council will provide the Monitoring Officer, s.151 Officer and the Council's Returning Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

7. Conduct

- 7.1 Officers will comply with the Officers' Code of Conduct (Appendix I - Code of Conduct for Employees) and the Protocol on Officer/Councillor Relations set out in (Appendix J - Protocol on Councillor and Officer Relations) or such other Protocols as may be adopted by the Council.

8. Employment

- 8.1 The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules set out in (Appendix M - Officer Employment Procedure Rules).

9. Delegations to Officers

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Introduction - Overall Basis

- 9.1 This scheme delegates the powers and duties of the Council to Officers and shall be interpreted widely rather than narrowly and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified, including appointment and dismissal of staff (where that is not reserved to Members by the scheme of delegation to committees) and authorising the affixing of the Common Seal.
- 9.2 This scheme operates under sections 101 of the Local Government Act 1972 and 15 of the Local Government Act 2000 and all other enabling powers.

Overall Limitations

- 9.3 This scheme does not delegate to Officers:
- (a) any matter reserved to full Council;
 - (b) any matter, which by law, may not be delegated to an Officer; and
 - (c) the determination of policy (including extension of or amendment to an existing policy) and budgetary matters; and
 - (d) any matter expressly withdrawn from delegation by this scheme or, in a particular case, by the Council, Cabinet or Committee or Sub-Committee.
- 9.4 The exercise of a delegated power shall be subject to:
- (a) The Council's policies, procedures and protocols, including the Budget and Policy Framework (Appendix B - Budget and Policy Framework Procedure Rules).
 - (b) The requirements of the Constitution, including the Contracts Procedure Rules (Appendix E - Contracts Procedure Rules) and Financial Procedure Rules (Appendix D - Financial Procedure Rules);
 - (c) Any statutory restrictions;
 - (d) The right of the Council, Cabinet, Committee or Sub-Committee to decide any matter in a particular case; and
 - (e) Any restrictions, conditions or directions of the delegating body.
- 9.5 In exercising delegated powers, Officers shall:
- (a) have regard to any report by the Chief Executive in his capacity as Head of Paid Service or the Monitoring Officer under sections 4 and 5 of the Local Government and Housing Act 1989 or the Chief Executive in his capacity as s.151 Officer under section 114 of the Local Government Finance Act 1988.

- (b) not go beyond the provision in the revenue or capital budgets for their service except to the extent permitted by the Contracts Procedure Rules (Appendix E - Contracts Procedure Rules) or Financial Procedure Rules (Appendix D - Financial Procedure Rules).
- (c) Where and when appropriate, report back to Cabinet, or appropriate Committee or Sub-Committee, as to the exercise of the delegated powers.

10. Further Provisions:

- 10.1 This scheme includes the power for Officers to delegate in writing all or some of the delegated functions to other Officers (described by name or post) either fully or under the general supervision and control of the delegating officer. Sub-delegations shall be recorded in a register kept by the Democratic Services Team under section 100G of the Local Government Act 1972. It shall be the responsibility of the Officer delegating any function to ensure that a copy of the delegation is forwarded to the Democratic Services Manager.
- 10.2 Before exercising delegated powers an Officer shall comply with the requirements for consultation with Members set out in this Constitution, including the limitations set out in this Scheme of Delegation, the Budget and Policy Framework Procedure Rules (Appendix B - Budget and Policy Framework Procedure Rules), the Access to Information Procedure Rules (Appendix A - Access to Information Procedure Rules), the Financial Procedure Rules (Appendix D - Financial Procedure Rules), and the Contracts Procedure Rules (Appendix E - Contracts Procedure Rules), and the Protocols (as set out in the appendices to this Constitution). It shall always be open to an Officer not to exercise delegated powers but to refer the matter to the Cabinet, Committee or Sub-Committee for decision.
- 10.3 In exercising delegated powers, Officers shall consult with such other Officers as they determine appropriate and shall have regard to any advice given.
- 10.4 This scheme shall operate from 1st September 2013.
- 10.5 This scheme delegates to the holder of each post named in it the management of the resources made available for the duties of the post as specified in the terms of the post holder's appointment.
- 10.6 In each case the delegated authority does not authorise the post holder to make any planning application which would materially conflict with or prejudice an identified policy in an adopted Local Plan for the time being in force.
- 10.7 In each case, except where the Chief Executive is exercising delegated authority under paragraph 12 (d) below, none of the Officers named is authorised to make a formal response on behalf of the Council to any Government Consultation Paper, without reference first to the Cabinet, relevant Portfolio Holder or the relevant Committee provided that when the timescale does not allow for reference to a scheduled Cabinet or Committee meeting, Officers are authorised to respond,

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following consultation with the relevant member of the Cabinet (where the matter is an Executive function) or with the relevant Committee Chairman (where the matter is not an Executive function).

- 10.8 The powers delegated to Officers, other than the Chief Executive, in this scheme may also be exercised by the Chief Executive when he considers such action to be appropriate.
- 10.9 Any reference to any Act of Parliament shall include reference to regulations, subordinate legislation and European Union legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.
- 10.10 Reference to any enactment, regulation, order or byelaw shall include any amendment, re-enactment or re-making of the same.
- 10.11 Any post referred to below shall be deemed to include any successor post or a post which includes within the job description elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.

11. General Delegations to All Chief Officers Acting Individually

- 11.1 The Chief Officers referred to within Part 13 of the Constitution are those set out in paragraph 2.2 above.
- 11.2 Chief Officers are empowered to carry out those specific functions of the Council delegated to them in this scheme of delegation forming Part 13 of the Constitution in addition to the follows generic powers:-
- 11.3 Deal with employment issues in accordance with the Council's procedures.
- 11.4 Within service budgets, accept tenders, place contracts and procure other resources within or outside the Council subject to compliance with the Council's Financial and Contract Procedure Rules.
- 11.5 Serve, receive and act upon notices and comply with any duty of the Council.
- 11.6 Exercise virement within the financial limits contained in the Financial Procedure Rules.
- 11.7 Provide services to other local authorities and organisations.
- 11.8 In exercising their delegated powers Chief Officers must act within the law, the Council's Constitution, its Financial and Contract Procedure Rules and other procedures and policies and within appropriate service budgets.
- 11.9 In exercising their delegated powers the Chief Officers will:

- consult the relevant Cabinet Portfolio Holder as appropriate;
- consult any appropriate Chief Officer or relevant Head of Service/Service Manager, in particular where there are significant financial, legal, property or HR implications of the proposed action or decision.

11.10 In the event of a Chief Officer post being vacant, or in the absence of a Chief Officer, those delegated powers may be exercised by the relevant Head of Service/Service Manager so far as permitted by law.

11.11 Where this Constitution permits the exercise of delegated powers by Heads of Service/Service Managers, such exercise is subject to the same restrictions and requirements as are applicable to Chief Officers.

12. Delegation to the Chief Executive and s.151 Officer

- (a) To be Head of the Paid Service under Section 4 of the Local Government and Housing Act 1989 and the s.151 Officer
- (b) The power to incur expenditure in the event of a civil emergency and to make orders under the Public Order Act 1986.
- (c) To manage the co-ordination of budget processes, including overall strategy, planning and information.
- (d) In cases of urgency, after consultation with the Leader and Deputy Leader of the Council [and, where possible, the Leader(s) of the Opposition], to take any decision which could be taken by the Cabinet or by a Committee and to report such actions to Cabinet or Committee as appropriate.
- (e) To be the Returning Officer and Electoral Registration Officer for the Council.
- (f) To be the proper officer of the Council for the purposes of the Local Government Act 1972, The Local Authorities (Executive and Arrangements)(Meetings and Access to Information)(England) Regulations 2012 and the Local Government (Miscellaneous Provisions) Act 1976.
- (g) To designate suitably qualified officers as Authorising Officers for the purpose of granting authorisations to exercise the powers made available to the Council by the Regulation of Investigatory Powers Act, 2000 in accordance with the changes to provisions made by the Protection of Freedoms Act 2012.
- (h) To exercise the granting of the higher level of internal authorisation under the Regulation of Investigatory Powers Act 2000 as set out in the Council's Surveillance Policy.
- (i) To be the proper officer of the Council for the purpose of Part II of the Local Authorities (Statutory Order) (England) Regulations 2001

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- (j) As Head of Paid Service, to exercise any powers delegated to another Officer except those in respect of which a specific professional qualification is required by statute.
- (k) The Chief Executive, or in his absence, the Chief Officer Communities & Business to give authorisation of a dispersal order under the Anti Social Behaviour Act 2003 Part 4 (Sections 30 and 31).
- (l) Pursuant to enabling legislation this Council via its Chief Executive has received and shall discharge all the functions of Dartford Borough Council with regard to the Revenues and Benefits Service as may be more particularly identified in Schedule 1 of the Partnership Working Agreement and Dartford Borough Council have agreed to place at the disposal of Sevenoaks District Council for the purposes of those functions the services of officers employed by Dartford Borough Council.
- (m) Pursuant to enabling legislation this Council via its Chief Executive has received and shall discharge all the functions of Dartford Borough Council with regard to the Environmental Health Service as may be more particularly identified in the Partnership Working Arrangements and Dartford Borough Council have agreed to place at the disposal of Sevenoaks District Council for the purposes of those functions the services of officers employed by Dartford Borough Council.
- (n) To grant exemptions on the political restrictions of officer posts under the Localism Act 2011
- (o) To exercise the proper administration of the Council's financial affairs which shall include issues of insurance, discretions as to rating, housing benefits and Council Tax under section 151 of the Local Government Act 1972 and section 114 of the Local Government Finance Act 1988.

This authority is limited in the following cases:

- (i) the approval of sums exceeding £10,000 being transferred from an agreed estimate to another purpose other than for which it was approved shall be subject to approval by the relevant Portfolio Holder(s); and
 - (ii) the writing off of debts exceeding £5,000 and rent arrears exceeding £5,000 shall be subject to approval by the Value for Money Portfolio Holder.
- (p) To exercise the budgetary control functions under the Council's Financial Procedure Rules.
 - (q) To arrange all borrowings, financing and investment in line with the Council's Treasury Management Policy Statement.
 - (r) To agree the terms of loans permitted under law.
 - (s) To authorise the release of funds from contingencies as set out in the Revenue Budget.

- (t) To have responsibility for the Council's general administration (including the sealing of documents), Committee structure and operation (including payment of Members' allowances and expenses) save that any adjustment to the Council's calendar of meetings as may be necessary shall only be exercised after consultation with the Leader of the Council or the appropriate Chairman. To be the proper officer of the Council for the purposes of sections 96, 225, 229 and Part VA, sections 115 and 146 of the Local Government Act 1972 and for the purposes of section 41 of the Local Government (Miscellaneous Provisions) Act 1976.
- (u) To manage central training and job evaluation.
- (v) To determine and issue guidelines to Officers for the management of human resources and in particular recruitment, training, conditions of service, rewards and discipline.
- (w) To permanently re-grade posts up to and including Head of Service level.

13. Delegation to the Chief Finance Officer

- (a) To exercise all the powers of management in the best interests of the Council with regard to land and property owned by the Council including authorising action for possession of any land or property.
- (b) To acquire and dispose of land that is necessary for the Council's current programme.
- (c) To institute and conduct legal proceedings where sufficient evidence exists when this is in the Council's interest or arising out of its functions and to take such action as he thinks appropriate with regard to any such proceedings as being in the Council's interest.
- (d) To defend all proceedings brought against the Council including appeals against its decisions and to take such action as he thinks appropriate with regard to any such proceedings.
- (e) To authorise Officers to represent the Council before all Courts and Tribunals.
- (f) To have the responsibility for taking care of all securities and title deeds of all property held in the name of the Council.
- (g) To maintain the collection of revenue, council tax and national non-domestic rates.
- (h) The administration of benefits.
- (i) To maintain an effective internal audit service
- (j) To act as lead officer for the Audit Committee
- (k) To act as the Risk Management Officer Champion and ensure appropriate risk

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management arrangements are in place across the Council.

- (l) To act as lead officer for maintaining effective corporate governance arrangements and the preparation of the Annual Governance Statement.
- (m) To make appropriate banking arrangements on behalf of the Council
- (n) To insure against risks where he considers this appropriate.
- (o) To receive and respond to expressions of interest under Community Right to Challenge, under Part 5, Chapter 2 of the Localism Act 2011.
- (p) To undertake the functions of the designated s.151 Officer in the absence of such Officer.

14. Delegation to the Chief Officer Legal & Governance

- (a) To institute and conduct legal proceedings where sufficient evidence exists when this is in the Council's interest or arising out of its functions and to take such action as is considered appropriate with regard to any such proceedings as being in the Council's interest.
- (b) To defend all proceedings brought against the Council including appeals against its decisions and to take such action as is considered appropriate with regard to any such proceedings.
- (c) To authorise Officers to represent the Council before all Courts and Tribunals.
- (d) To have responsibility for the Council's general administration (including the sealing of documents), Committee structure and operation (including payment of Members' allowances and expenses) save that any adjustment to the Council's calendar of meetings as may be necessary shall only be exercised after consultation with the Leader of the Council or the appropriate Chairman or Chairmen.
- (e) To have the responsibility for taking care of all securities and title deeds of all property held in the name of the Council.
- (f) To act as the Proper Officer for the purposes of the Local Government Act 2000.
- (g) To amend the Constitution where necessary to reflect changes in the law or decisions of council bodies or to correct inaccuracies.
- (h) To prepare all contracts for the sale or purchase of Council Land and property and all leases, tenancy agreements or other agreements affecting Council land or property including easements or any interest in land.
- (i) To settle legal documents.
- (j) To sign the documents intended to give effect to decisions of a council body.

- (k) To sign any notice, demand or other document on behalf of the Council in connection with any actual or contemplated legal proceeding.
- (l) To settle any action in any court or tribunal in which the Council is a party or where legal proceedings are indicated providing that any settlement exceeding £50,000 will be subject to prior consultation with the Leader or Deputy Leader of the Council except in cases of urgency where the settlement is made on the advice of Counsel.
- (m) In consultation with the Chairman of the Governance Committee to make payments or provide other benefits in cases of maladministration in accordance with Section 92 of the Local Government Act 2000 (as amended)
- (n) To act as the Proper Officer for the purposes of the Local Government Acts 1972 and 2000 and all Regulations made there under other than those Proper Officer functions delegated to the Chief Executive and s.151 Officer in connection with the administration of the Council's financial affairs.
- (o) To act as lead officer for the Governance Committee
- (p) To act as lead officer for the Standards Committee

15. Delegation to Chief Planning Officer

- (a) To exercise all the powers and duties of the Council as the Local Planning Authority (including the conduct of appeals) under all Town and Country Planning legislation, subject to the following exceptions:
 - (1) Where an application is submitted to Sevenoaks District Council for determination, it shall be referred to the Development Control Committee if any of the following apply.
 - (i) In the opinion of the Chief Planning Officer, the application is of a significant, controversial or sensitive nature.
 - (ii) It is proposed to determine an application which in the opinion of the said Chief Planning Officer, would set a significant precedent.
 - (iii) A written request for consideration by the Development Control Committee, supported by an appropriate planning reason¹, has been received from a Member of the Council no later than 21 calendar days following despatch of the weekly list of planning applications on which such applications appear, or such lesser period as may be notified by the Chief Planning Officer in relation to any application where a decision could not otherwise be made by Committee before the statutory deadline for determination.

¹ A 'Planning Reason' includes accordance with a relevant Development Plan Policy or a material planning consideration. The Chief Planning Officers or Development Control Manager will offer advice if necessary on an appropriate planning reason.

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Where amended plans and/or information of a significant nature (as determined by the Chief Planning Officer) are received on an application, an additional call-in period will be given, the period for which will be specified by the Chief Planning Officer to suit the circumstances of each case.

- (iv) A written request for consideration by the Development Control Committee, supported by an appropriate planning reason, has been received from a Member of the Council relating to an application in their Ward no later than seven calendar days following notification by the Chief Planning Officer of a proposed recommendation which is contrary to representations received in support of, or in objection to, an application from the Town or Parish Council for the area (subject to the arrival of such representations within the statutory consultation period).
 - (v) An application known to have been submitted by, or on behalf of, a Member or an Officer of the District Council, or a member of their family².
- (2) Where the Council is a consultee to an application e.g. where an application is submitted to Kent County Council as the Mineral Planning Authority, the application shall be referred to the Development Control Committee if in the opinion of the Chief Planning Officer, it is of a significant, controversial or sensitive nature.
- (3) Enforcement action shall be referred to the Development Control Committee if either of the following apply.
- (i) A request for consideration by the Development Control Committee, supported by an appropriate planning reason, has been received from a Local Member; or
 - (ii) The Chairman or Vice Chairman of the Development Control Committee requires the case to be considered by the Development Control Committee.
- (4) Where permission has been refused under delegated powers, an appeal has been lodged and new information has been received that leads Officers to conclude that refusal of permission can no longer be substantiated at appeal, the matter will be referred back to Members to enable the original delegated refusal to be reviewed.

If sufficient time is available, local Members will be asked to agree to a decision no longer to oppose the scheme following the procedure for delegated decisions and if the local Members do not agree the matter will be

² A 'member of their family' shall include a partner (someone they are married to, civil partner or other person who they live with in a similar capacity), a parent, a parent-in-law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of their partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, and the partners of any of these people.

referred to the Development Control Committee including, if necessary, an emergency meeting.

If the appeal timetable does not allow for the above process to be completed in time, the review of the delegated decision will be referred to a Panel of three Members of the Committee for decision, after consultation with the local Members.

The Chief Executive will call a meeting of one of the Panels whenever there is business to be transacted.

A Panel will contain three Members of the Development Control Committee. Either the Chairman or Vice-Chairman of the Development Control Committee will be one of the Members of the panel and the other Members of the Panel will be selected sequentially in alphabetical order. Local Members should not normally be part of the Panel but will have the right to address the Panel for a maximum of 3 minutes.

Any Member of the Development Control Committee may act as a substitute on a Panel. Democratic Services must be notified by the Members concerned of any substitutions at least one working hour prior to a Panel meeting. The Chairman or Vice-Chairman of the Development Control Committee, whichever is present, will be the Chairman of the Panel.

The quorum for a Panel meeting shall be three Members.

The procedure will not apply to the review of individual reasons for refusal where the decision to refuse permission does not change.

- (5) The Chief Planning Officer to institute, conduct and settle legal proceedings on behalf of the Council in any Court of Law, Tribunal or other body in respect of any breach or contravention of the Planning Acts and regulations made thereunder (including actions for injunctions).
- (b) To take all necessary action to defend legal proceedings against the Council.
- (c) To exercise all relevant legislation where appropriate as follows:
- The Town and Country Planning Act 1990
 - Planning (Listed Buildings and Conservation Areas) Act 1990
 - Town and Country Planning (Control of Advertisements)(England) Regulations 2007
 - the Town and Country Planning (General Permitted Development) Order 1995

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- Planning & Compulsory Purchase Act 2004
- Planning and Compensation Act 1991
- Countryside and Rights of Way Act 2000.
- Growth and Infrastructure Act 2013
- the Localism Act 2011

or such other Acts of Parliament as relate to the relevant statutory functions of the planning authority

16. Delegation to the Chief Officer Environmental & Operational Services

- (a) To exercise all the Council's powers and duties with regard to Building Control under the Building Act 1984 and regulations made thereunder.
- (b) To take all necessary action to secure compliance with the Building Act 1984 and regulations made thereunder, including the service of statutory notices.
- (c) To institute, conduct and settle legal proceedings on behalf of the Council in any Court of Law, Tribunal or other body in respect of any breach or contravention of the Building Act 1984 and regulations made thereunder (including actions for injunctions).
- (d) To take all necessary action to defend legal proceedings against the Council.
- (e) To exercise the functions of the Council with regard to environmental improvements and access to the Countryside.
- (f) To deal with all matters relating to high hedges under Part 8 of the Anti-Social Behaviour Act 2003

Environmental and Operational Services

Direct Services

- (g) To operate the activities of Sevenoaks Direct Services.
- (h) To deal with any matters relating to the powers contained in the Clean Neighbourhood and Environment Act 2005.
- (i) To deal with any matters relating to the powers contained in the Environmental Protection Act 1990
- (j) To deal with any matters relating to the powers contained in the Refuse Disposal (Amenity) Act 1978

Parking & Amenity

- (k) To operate playgrounds to ensure health and safety requirements are met, and to seek alternative management of playgrounds as appropriate.
- (l) To monitor and review the Council's grounds maintenance contract and ensure corrective action is taken when required.

Environmental Services

- (m) To be the Council's proper officer for the purposes of matters relating to food safety and infectious diseases save that where such designation requires a medical or other specialist qualification, to be authorised to designate suitable persons as proper officer for that purpose.
- (n) To exercise all the functions of the Council with regard to matters relating to environmental health, including public health, food hygiene and health and safety, animal welfare (including the authorisation of legal proceedings).
- (o) To exercise all the functions of the Council with regard to matters relating to contaminated land (including the authorisation of legal proceedings) and air quality.

Licensing

- (p) To authorise legal proceedings in respect of any contravention arising from the Licensing Act 2003, the Gambling Act 2005 and the Charities Act 2006.
- (q) To determine all applications for a personal licence, where no objections have been made
- (r) To determine all applications for a premises licence/club premises certificate under the Licensing Act 2003, where no relevant representations have been made.
- (s) To determine all applications for a provisional statement under the Licensing Act 2003, where no relevant representations have been made.
- (t) To determine all applications to vary premises licences/club premises certificates under the Licensing Act 2003, where no relevant representations have been made.
- (u) To determine all applications to vary designated personal licence holders, except where there is a police objection.
- (v) To determine all requests to be removed as designated personal licence holders.
- (w) To determine all applications by way of Interim Authority Notices except where there is a police objection.
- (x) To determine whether representations submitted are irrelevant, frivolous, or vexatious

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(y) To determine all applications for Minor Variations to premises/club premises licences.

~~(z)~~ To determine all applications for removal of the mandatory condition to have a Designated Premises Supervisor at Community Premises.

~~(aa)~~ To make a representation to applications for Premises Licence or Club Premises Certificate under the Licensing Act 2003.

~~(bb)~~ To make an application for a premises licences or club premises certificate to be reviewed without having to wait for another Responsible Authority to make an application.

~~(cc)~~ To determine all applications for a premises licence/club premises certificate under the Gambling Act 2005, where no relevant representations have been made.

~~(dd)~~ To determine all applications for a provisional statement under the Gambling Act 2005, where no relevant representations have been made.

~~(ee)~~ To determine all applications to vary premises licences/club premises certificates under the Gambling Act 2005, where no relevant representations have been made.

~~(z)(ff)~~ To maintain the Licensing Register.

~~(aa)(gg)~~ To exercise the Council's powers and duties in relation to the licensing of hackney carriages and private hire vehicles, including the licensing of vehicles, drivers and operators, the control of numbers of hackney carriages, the licensing of private hire operators and the granting of permits for small busses.

~~(bb)(hh)~~ To exercise all the Council's functions with regard to hypnotism street collections (including the variation of any conditions imposed on any licence)

Additional Functions

~~(ee)(ii)~~ To carry out the land charges function.

~~(ed)(jj)~~ To carry out street naming and numbering.

~~(ee)(kk)~~ To carry out the retaining of walls near streets.

~~(ff)(ll)~~ To carry out the Council's functions in relation to temporary road and footpath closures.

~~(gg)(mm)~~ To carry on the functions associated with parking contraventions.

~~(hh)(nn)~~ To exercise as appropriate all relevant legislation as follows:

- Animal Boarding Establishments Act 1963

- Animal Welfare Act 2006
- Animals Act 1941
- Breeding of Dogs Act 1973 & 1991
- Dogs (Fouling of Land) Act 1996
- Clean Air Act 1993
- Control of Pollution Act 1974
- Control of Dogs Order 1991
- Criminal Justice and Public Order Act 1994
- Anti- Social Behaviour Act 1972
- Dangerous Dogs Act 1991
- Dangerous Wild Animals Act 1976
- Environment Act 1995
- European Communities Act 1972
- Food Safety Act 1984 and 1990
- Food Hygiene (England) Regulations 2006
- Food and Environment Protection Act 1985
- Guard Dogs Act 1975
- Health Act 2006
- Health and Safety at Work etc Act 1974
- National Assistance (Amendment) Act 1951
- National Assistance Act 1948
- Noise Act 1996
- Noise and Statutory Nuisance Act 1993
- Offices, Shops and Railway Premises Act 1963

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- Performing Animals (Regulations) Act 1925
- Pet Animals Act 1951
- Pesticides Act 1995
- Pollution Prevention and Control Act 1990
- Police and Criminal Evidence Act 1984
- Prevention of Damage by Pests Act 1949
- Public Health (Amendment) Act 1907 and 1961
- Public Health Act 1936, 1925, 1961
- Public Health (Control of Diseases) Act 1984
- Refuse Disposal (Amenity) Act 1978
- Riding Establishments Act 1964 & 1970
- Scrap Metal Dealers Act 2013
- Christmas Day Trading Act 2004
- Sunday Trading Act 1847
- Goods Vehicle (Licensing of Operators) Act 1995
- Towns Improvement Clauses Act 1847
- The Water Supply (Water Quality) Regulations 2010
- Water Industry Act 1991
- Wildlife and Countryside Act 1981
- The Private Water Supply Regulations 2009
- Zoo Licencing Act 1981
- Road Traffic Act 1988 and 1991
- Road Traffic Regulation Act 1984
- Traffic Management Act 2004

- Town Police Clauses Act 1847
- Highways Act 1980
- House to House Collections Act 1939
- Local Government Act 1972
- The Local Government (Miscellaneous Provisions) Act 1976 and 1982
- Commons Act 1899
- Local Authorities (Goods and Services) Act 1970
- Sunbeds Regulation Act 2010
- Localism Act 2011

or such other Acts of Parliament as relate to the relevant statutory functions of the Environmental services authority.

17. Delegation to the Chief Officer Housing

Housing Services

- (a) To exercise all the functions of the Council as a housing authority, including the responsibility for the Council's Housing Strategy and policies, the enabling role, the Homelessness and Housing advice service, standard and fitness or properties, Energy Conservation issues and the management of unauthorised encampments and of the Council's gypsy site.
- (b) The power to authorise Housing staff (Housing advice and Homelessness) under Part V11 Housing Act 1996, Housing Act 2002, Prevention from Eviction Act 1977, Police and Criminal Evidence Act 1984 and National Assistance Act 1948.
- (c) To exercise where appropriate all other relevant legislation as follows:
 - Houses, Grants, Construction and Regeneration Act 1996
 - Housing Acts 1977, 1985, 1988, 1989, 1996, 2002 and 2004
 - Environmental Protection Act 1990
 - Local Government Acts 1933 & 1972
 - Caravan Sites and Control of Development Act 1960
 - Caravan Sites Act 1968

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- Building Act 1984
- The Water Supply (Water Quality) Regulations 2010
- The Water Industry Act 1991 as amended
- The Private Water Supply Regulations 2009
- Prevention of Damage by Pests Acts 1949
- Public Health Acts 1936 & 1961
- Public Health Control of Disease Act 1984 as amended
- Landlord and Tenant Act 1985
- National Assistance Act 1948
- Local Government (Miscellaneous Provisions) Act 1976 & 1982
- Criminal Justice and Public Order Act 1994
- Home Energy Conservation Act 1995 as amended
- Land Drainage Act 1991
- Rent (Agricultural) Act 1976
- Protection from Eviction Act 1977
- Mobile Homes Act 1975 and 1983
- Police and Criminal Evidence Act 1984
- The National Assistance Act 1948
- The Local Government (Miscellaneous Provisions) Act 1976
- The Kent Acts
- Localism Act 2011

or such other Acts of Parliament as relate to the relevant statutory functions of the Housing Authority.

18. Delegations to the Chief Officer Communities & Business

Communities and Business

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- (a) To be responsible for the implementation and co-ordination of the Council's duties and functions under the Crime and Disorder Act 1998 as amended, including the authorisation of seeking appropriate orders under the Act.
- (b) To manage the Council's contractual relationship with Sencio Community Leisure and to operate the Council's leisure facilities that are not under the management of the Leisure Trust, including seeking alternative management of leisure facilities or funding or assistance from the Lottery Arts Fund save that where support or rejection for such assistance arises from a town or parish council, the Local Member(s) shall be consulted.
- (c) In partnership, facilitate arts (arts development in partnership with Kent County Council) within Council policies and manage the Council's contractual relationship for the operation of the Stag (formerly known as Sevenoaks Playhouse).
- (d) To exercise co-ordination of all matters relating to sustainable development and other matters of environmental management and policy agreed by the Council.
- (e) To be responsible for the implementation of Economic Development Policy and Programmes.
- (f) To be responsible for Strategic and Operational Tourism.
- (g) To undertake the Council's involvement in Health Improvement Plans, Health and Wellbeing Boards and the implementation of Health Policy.
- (h) To be responsible for the implementation, with other partners, of the Sevenoaks District Community Plan on behalf of the Council.
- (i) The responsibility, with other partners, for the implementation of the Voluntary Sector Compact.
- (j) To facilitate youth development and safeguarding within the Council's policies.
- (k) To operate the Council's capital schemes in parishes and other grant schemes.
- (l) To authorise and maintain a list of assets of community value and to make adjudications and decisions in relation thereto.
- (m) To exercise where appropriate all other relevant legislation as follows:
 - Anti-Social Behaviour Act 2003 and consequential amendments
 - Police Reform Act 2002
 - Police & Justice Act 2006
 - Localism Act 2011

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or such other Acts of Parliament as relate to the relevant statutory functions for Community Safety.

19. Delegations to Chief Officer Corporate Support

(a) To be responsible for the following functions

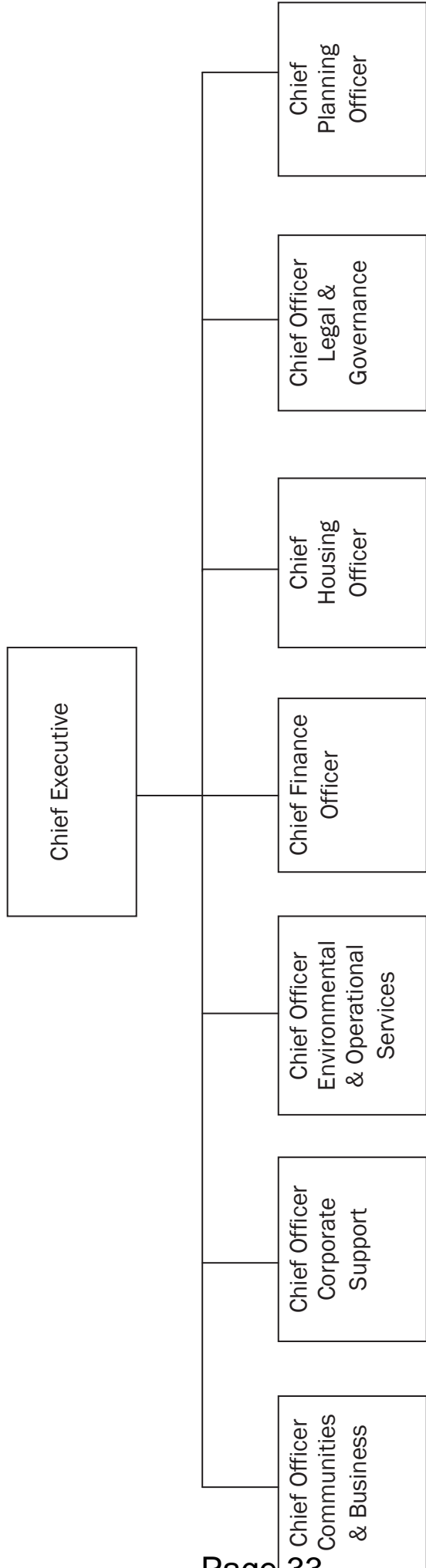
- Customer services
- Facilities Management
- IT Services
- Property Services,
- Post Room and Scanning
- Telecommunications

(b) To exercise where appropriate all other relevant legislation as follows:

- Landlord and Tenant Act 1954
- Landlords and Tenant Covenants Act 1995
- The Construction (Design and Management) Regulations 2007
- The Control of Asbestos Regulations 2012
- Disability Discrimination Act 2005
- The Local Government (Miscellaneous Provisions) Act 1976
- Local Authorities (Goods and Services) Act 1970
- The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007
- Localism Act 2011

or such other Acts of Parliament as relate to the relevant statutory functions in relation to the Facilities and IT services of the authority

Organisational Structure



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